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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,607	09/29/2003	Heinrich Lysen	741124-106	8512
22204	7590	10/06/2005	EXAMINER	
NIXON PEABODY, LLP 401 9TH STREET, NW SUITE 900 WASHINGTON, DC 20004-2128			AKANBI, ISIKA O	
			ART UNIT	PAPER NUMBER
			2877	

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/671,607

Applicant(s)

LYSEN, HEINRICH

Examiner

Isiaka O. Akanbi

Art Unit

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/1/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement file 29 September 2003 has been entered and reference considered by the examiner.

Drawings

The examiner approves the drawings filed 29 September 2003.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1, 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Schiff (6,023,337). The reference of Schiff discloses the features of the claimed as follows:

As regard to claim 1, Schiff discloses device for measuring machine tools comprising of the following:

- a housing (22) with at least one exit/entrance window (32),
- a power supply, this would be an inherent part of a laser light source or any type of suitable beam generator,
- a clamping cylinder or pin (12) on said housing for securing the housing on a machine tool (col. 4, line 6-11),
- a light beam transmitter for producing a light beam (col. 3, line 59-60)
- a beam splitter (30) in said housing, and

- an optoelectronic target (46) in said housing, said target having a two dimensional read-out (col. 5, line 55-65).

Regarding claim 4, Schiff disclose wherein said light beam transmitter is a laser (col. 3, line59-60).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2, 5, 6, 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schiff (6,023,337) in view of Hamar et al. (5,302,833)

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over of Schiff as applied to claims 1. The reference of Schiff teaches of the features of claim 1, comprising light beam transmitter, a reflecting/exit window and a beam splitter, however the reference of Schiff is silent regarding wherein said at one exit window comprises first and second exit/entrance windows, each of which is at a different side of said beam splitter from each other and said light beam transmitter. The reference of Hamar teaches of a beam splitter (26)(fig. 3)(col. 8, line 56-60). It would have been obvious to one having ordinary skill in the art at the time of invention to have first and second exit/entrance windows at a different side of said beam splitter from each other and said light beam transmitter for the purpose of having two separate light passing through each window, one for reflecting and the other for refraction, since these are well known beam splitter operation advantages.

As to Claim 5, the reference of Schiff is silent regarding a first transmitter/receiver having a housing that is mountable on a first machine tool, a second transmitter/receiver, identical to said first transmitter/receiver, that is mountable on a second machine tool, wherein each said transmitter/receiver is operable for transmitting a light beam to the other transmitter/receiver and for receiving a light beam from the other transmitter/receiver for performing alignment measurements of said machine tools based on the positional relationship of the impact points of the light beams in each transmitter/receiver. The reference of Hamar teaches of transmitter/receiver (27/29/31)(fig. 3)(col. 8, line 53-69). It would have been obvious to one having ordinary skill in the art at the time of invention to have a first transmitter/receiver having a housing that is mountable on a first machine tool and a second transmitter/receiver, that is mountable on a second machine tool for the purpose of adjusting the relative alignment between the machine tool and the workpiece.

As to claim 6, Schiff disclose all the feature of the claim as applied to claim 1 except for wherein each of said combined exit/entrance windows is at a different side of said beam splitter from each other and said light beam transmitter. However, the reference of Hamar teaches of a beam splitter (26) (fig. 3)(col. 8, line 56-60). It would have been obvious to one having ordinary skill in the art at the time of invention to have first and second exit/entrance windows at a different side of said beam splitter from each other and said light beam transmitter for the purpose of having two separate light passing through each window, one for reflecting and the other for refraction, since these are well known beam splitter operation advantages.

As to claim 7, the reference of Schiff is silent regarding a third transmitter/receiver that is identical to said first and second transmitter/receivers. The reference of Hamar teaches of third identical transmitter/receiver (29)(fig. 3). It would have been obvious to one having ordinary skill in the art at the time of invention to construct a third identical transmitter/receiver for the purpose of enabling simultaneous assessment of displacement and alignment data, thereby greatly facilitating machine alignment processes.

As to Claim 8, the reference of Schiff is silent regarding measuring alignment of machine tools, comprising: sending a first beam from a first transmitter/receiver located on a first machine tool to a second transmitter/receiver located on a second machine tool; sending a second beam from said second transmitter/receiver to said first transmitter/receiver, obtaining deviations of impact points of said first and second beams from a target located in each of the first and second transmitter receivers', and using the deviations obtained for determining an offset of spindles of the machine tools. The reference of Hamar teaches of transmitter/receiver (27/29/31)(fig. 3) (fig. 5)((fig. 15)(col. 8, line 53-69). It would have been obvious to one having ordinary skill in the art at the time of invention to mount the first transmitter/receiver and the first transmitter/receiver on two machine tool as needed for the purpose of adjusting the relative alignment between the machine tool and the workpiece, since it was known in the art that this can be achieved by mounting in a spindle or master part.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schiff (6,023,337) in view of the examiner Official Notice.

As to claim 3, the reference of Schiff is silent regarding wherein said windows are filter windows and are matched to the wavelength of light emitted by said light beam transmitter. The examiner wishes to take Official Notice of the fact that the use of filter windows that matched to the wavelength of light emitted would have been well known. It would have been obvious to one having ordinary skill in the art at the time of invention to use filter window for the purpose of transmitting light to a photosensitive cells.

Conclusion

Official Notice

Several facts have been relied upon from the personal knowledge of the examiner about which the examiner took Official Notice. Applicant must seasonably challenge well known statements and statements based on personal knowledge. In re Selmi, 156 F.2d 96, 70 USPQ 197

(CCPA 1946); In re Fischer, 125 F.2d 725, 52 USPQ 473 (CCPA 1942). See also In re Boon, 439 F.2d 724, 169 USPQ 231 (CCPA 1971) (a challenge to the taking of judicial notice must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying the judicial notice). If applicant does not seasonably traverse the well-known statement during examination, then the object of the well-known statement is taken to be admitted prior art. In re Chevenard, 139 F.2d 71, 60 USPQ 239 (CCPA 1943). A seasonable challenge constitutes a demand for evidence made as soon as practicable during prosecution. Thus, applicant is charged with rebutting the well-known statement in the next reply after the Office action in which the well-known statement was made. See MPEP 2144.03, paragraphs 4 and 6.

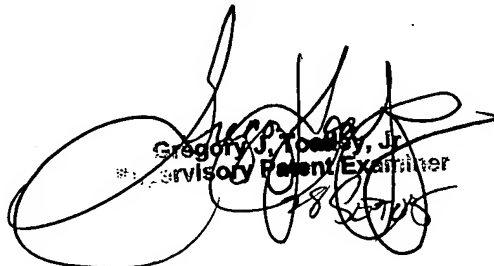
Fax/Telephone Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isiaka Akanbi whose telephone number is (571) 272-8658. The examiner can normally be reached on 8:00 a.m. - 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley Jr. can be reached on (571) 272-2800 ext. 77. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Isiaka Akanbi
September 26, 2005


Gregory J. Toatley, Jr.
Supervisory Patent Examiner